

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

LINDA SCHUMACHER, *et al.*,

Plaintiffs,

v.

JAY R. INSLEE, *et al.*,

Defendants.

NO. 3:18-cv-5535

**RENEWED STIPULATED MOTION TO  
EXTEND CLASS DISCOVERY  
DEADLINES AND ORDER**

**NOTE DATE: Oct. 7, 2020**

The Parties respectfully submit a renewed request that this Court extend the current deadlines for class-related discovery and for Plaintiffs' class certification motion. This Court denied the Parties' previous request in its Order Denying Stipulated Motion for an Extension of Time without prejudice, citing the lack of explanation as to what remains to be done in this case and how the parties intend to complete the discovery. Dkt. 62.

The previous stipulated deadline for class-related discovery was September 30, 2020. The original deadline for Plaintiffs' motion for class certification is October 30, 2020. The Parties have worked diligently to finish class-related discovery but have encountered several challenges which have delayed the process.

1 For instance, Plaintiffs served written discovery on July 16, 2020. SEIU 775 served  
 2 objections and interrogatory answers on August 17 but were unable to provide any documents at  
 3 that time. That inability was due to the fact that since early August SEIU 775's general counsel,  
 4 Judy Krebs, had first been preparing for and then serving as lead counsel in a 9-day interest  
 5 arbitration against the State, which occupied nearly all of her professional time.

6 Following the conclusion of the arbitration in late August, Ms. Krebs had a scheduled  
 7 vacation. On August 27 undersigned counsel Michael Subit began a 20-day cross-country driving  
 8 trip to New York and back to see his elderly parents, both of whom suffer from serious health  
 9 issues.<sup>1</sup> Mr. Subit returned to Seattle on the afternoon of September 15. On September 17, the  
 10 Union produced supplemental discovery responses including a sizable document production.  
 11 However, it was immediately discovered that a handful of individuals had been erroneously  
 12 identified as potential class members after the Union had already undertaken the discovery  
 13 requested for these individuals. It took the Union a week to confirm the class list and transfer  
 14 relevant files to Mr. Subit's law firm. The Union also encountered technical difficulties in making  
 15 necessary redactions to electronic documents. On September 24, SEIU 775 provided a corrected  
 16 class list and additional documents.

17 While SEIU 775 has worked diligently to respond to Plaintiffs' discovery requests and has  
 18 produced approximately 1,400 pages of documents, its discovery production is not yet complete.  
 19 The Parties have also encountered minor disputes with respect to the Plaintiff's class-related  
 20 discovery, which they may be able to resolve with additional time without judicial intervention.  
 21 Although the Union received the Plaintiffs' discovery responses in late August, due to Mr. Subit's

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 24 <sup>1</sup> On September 4, 2020, *USA Today* ran an article on Mr. Subit's trip and the difficulties of scheduling it due to the COVID pandemic.

three-week absence from Seattle, the parties were not able to schedule the plaintiffs' depositions before the discovery cut-off.

#### Remaining Discovery by Plaintiffs

The Union expects to complete its production of documents this week. Due to the delay in discovery, Plaintiffs' counsel has not been able to prepare Plaintiffs' case with respect to class certification pursuant to the anticipated schedule the Parties previously agreed upon, and requires additional time to prepare the case with respect to class certification. Further, Plaintiffs' counsel have difficult schedules throughout October, November, and December, that include a number of commitments and deadlines, including a possible trial, multiple appeals briefs, and holiday travels. Additionally, individuals needed for depositions have busy schedules throughout November. Specifically, what remains as to class-related discovery is the completed production of documents anticipated from SEIU 775 in response to Plaintiffs' discovery requests, which were issued July 16, 2020, and the resolution of any other issues between the parties, which the parties believe could be addressed within the next two (2) weeks. Additionally, Plaintiffs anticipate the need to issue a set of Requests for Admission based, at least in part, upon the documents still to be produced by SEIU and, possibly, based upon deposition testimony.<sup>2</sup>

#### Remaining Discovery by the Union

The only remaining discovery the Union anticipates are short depositions of the four named plaintiffs. The Parties believe those depositions can be completed over a two-day period. In June the Parties tentatively agreed to schedule those depositions in late August. At that time, Mr. Subit advised Plaintiffs' counsel that he was planning to make a 3-week cross-country driving trip to

<sup>2</sup> The Union does not concede Plaintiffs' entitlement to or the relevance of additional discovery.

1 visit his elderly parents (one of whom is suffering from a terminal medical condition), the timing  
2 of which would depend on the status of the COVID-19 outbreak.

3 Washington was removed from the New York quarantine list in early August. Mr. Subit  
4 determined that the safest time for the trip would be late August through mid-September. Rather  
5 than schedule plaintiffs' depositions for late-September, after his return Mr. Subit devoted his  
6 energies to facilitating the Union's discovery production. Although Plaintiffs were available  
7 throughout September for SEIU 775's anticipated depositions, Plaintiffs' availability for these  
8 depositions is limited throughout October due to busy schedules and pre-planned vacations. While  
9 the Union prefers to take the plaintiffs' depositions in October, given the plaintiffs' schedules, the  
10 Parties anticipate conducting Plaintiffs' depositions during November.

11 Due to these considerations, the Parties respectfully request that the Court amend the  
12 current class-related discovery deadlines as follows:

13 Class-related discovery deadline: December 1, 2020

14 Plaintiffs' motion for class certification: January 7, 2021

15 Defendant's response in opposition to Plaintiffs' motion for class certification: January 25, 2021

16 Plaintiffs' reply: January 29, 2021

17 If the Parties' renewed motion for extension does not meet the Court's concerns, the Parties  
18 request a telephonic status conference with the Court.

19 Dated: October 7, 2020  
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1  
2 By: /s/James G. Abernathy  
3 James G. Abernathy, WSBA #48801  
4 c/o Freedom Foundation  
5 P.O. Box 552 Olympia, WA 98507  
6 p. 360.956.3482 f. 360.352.1874  
7 [jabernathy@freedomfoundation.com](mailto:jabernathy@freedomfoundation.com)

8  
9 Attorneys for Plaintiffs and the Proposed  
10 Class

11  
12 FRANK FREED SUBIT & THOMAS  
13 LLP


14 By: /s/ Michael C. Subit  
15 Michael C. Subit, WSBA # 29189  
16 705 Second Avenue, Suite 1200  
17 Seattle, WA 98104  
18 [msubit@frankfreed.com](mailto:msubit@frankfreed.com)

19  
20 ALTSHULER BERZON LLP

21 By: /s/Scott A.Kronland  
22 Scott A. Kronland  
23 177 Post St., Suite 300  
24 San Francisco, CA 94108  
415-421-7151  
skronland@altber.com

Attorneys for Defendant SEIU 775

It is so ORDERED this 8th of October  
2020.

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22 Marsha J. Pechman  
23 United States District Judge  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel/parties of record. I hereby certify that no other parties are to receive notice.

Dated: October 7, 2020

By: /s/James G. Abernathy  
James G. Abernathy, WSBA #48801  
c/o Freedom Foundation  
P.O. Box 552 Olympia, WA 98507  
p. 360.956.3482 f. 360.352.1874  
[jabernathy@freedomfoundation.com](mailto:jabernathy@freedomfoundation.com)